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HEWLETT-PACKARD COMPANY   PATENT APPLICATION
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Fort Collins, Colorado 80527-2400

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s):   Hamilton et al.   Confirmation No.: 8040

Application No.: 09/942,503   Examiner: Worku, Negussie

Filing Date: 08/29/2001   Group Art Unit: 2625

Title: Acquisition and Organization of Digital Images

Mail Stop Appeal Brief-Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on ____02/27/08____ .

☐ The fee for filing this Appeal Brief is $510.00 (37 CFR 41.20).

☒ No Additional Fee Required.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

☐(a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)) for the total number of months checked below:

☐ 1st Month $120   ☐ 2nd Month $460   ☐ 3rd Month $1050   ☐ 4th Month $1640

☐ The extension fee has already been filed in this application.

☒(b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account 08-2025 the sum of ___$ 0___ . At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.

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Respectfully submitted,

Hamilton et al.

By _____

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Rev 10/07(AplBrief)

HP Docket No. 10019417-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	: 09/942,503	)
Conf. No.	: 8040	)
Appellant	: Hamilton et al.	)
Filed	: 08/29/2001	)
Title	: Acquisition and Organization of Digital Images	)
		)
		)
TC / Art Unit	: 2625	)
Examiner	: Worku, Negussie	)
		)
Docket No.	: 10019417-1	)
Customer No.	: 022879	)

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

APPELLANTS' APPEAL BRIEF

Sir:

Appellants are appealing from the Rejection of claims 1-9, 11-25, 27-38, and 41 in a Non-Final Office Action dated 11/27/2007. Prosecution was reopened following submission of Appellants' prior Appeal Brief. The Appeal is reinstated in accordance with MPEP § 1204.01.

I. REAL PARTY IN INTEREST

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a

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Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holding, LLC.

II. RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to the real party in interest which will directly affect or be directly affected by, or have a bearing on, the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-9, 11-25, 27-38, and 41 are pending. Claims 10, 26, and 39-40 have been previously canceled. All of claims 1-9, 11-25, 27-38, and 41 stand rejected. The Appellants appeal the rejection of claims 1-9, 11-25, 27-38, and 41.

IV. STATUS OF AMENDMENTS

The most recent Office Action, dated 11/27/2007, reopening prosecution following submission of Appellants' prior Appeal Brief filed 07/25/2007, is a Non-Final Office Action. Accordingly, since the application is not under final rejection, no amendments subsequent to final rejection have been filed.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent claims 1, 11, 27, 35-38, and 41 are under appeal. The claimed subject matter relates to an image processing system.

Independent claim 1 recites a method of optically scanning a target item. In one embodiment, and with reference to Fig. 1, the method may be performed by an image processing system 10. In system 10, an image capture subsystem 30 may acquire digital

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image data from an image source 20, such as an optical scanner 24 (Fig. 2), or a multifunction printer 25 (Fig. 2) that includes an optical scanner subsystem (p.3, line 21 – p.4, line 1; p.5, lines 2-7). In operation according to the method, and with reference to Figs. 4 and 6, at 102 the digital image data is acquired from the image source 20 (p.11, lines 2-4). As part of the acquisition process 102, the digital image data is captured 126 or preprocessed 132 according to predefined settings for scanning parameters, such as exemplary parameters 140 (Fig. 7), that are appropriate to a photographic image (p.14, lines 2-16). Such predefined settings appropriate to a photographic image may include, for example, a pixel depth 142 of 24-bit color; an image resolution 144 of 150 dots per inch (dpi); a crop mode 146 of automatic border detection; and a skew correction mode 148 of automatic image straightening (p.15, lines 3-12). However, these predefined settings are not defined by the user of the image processing system 10 (p.15, lines 12-18). After the digital image data has been acquired 102, the digital image data is converted 106 into a data file and stored 108 on a file system 40, automatically and without intervention by a user (p.11, lines 9-11). For image sources such as the optical scanner 24 or multifunction printer 25, digital image data can advantageously be acquired more quickly and easily than in previous systems, because there is no need for the user to determine and manually adjust the scanning parameter settings in conjunction with a preview of the captured image before the digital image data is acquired (p.15, lines 12-18).

Independent claim 36 recites a processor-readable medium having processor-executable instructions thereon which, when executed by a processor, cause the processor to operate in a manner similar to as has been described with regard to claim 1. In operation according to the instructions, and with reference to Figs. 4 and 6, at 102 the digital image data is acquired from the image source 20 (p.11, lines 2-4). As part of the acquisition process 102, the digital image data is captured 126 or preprocessed 132 according to predefined settings for scanning parameters, such as exemplary parameters 140 (Fig. 7), that are appropriate to a photographic image (p.14, lines 2-16). These predefined settings are not defined by the user of the image processing system 10 (p.15, lines 12-18). After the digital image data has been acquired 102, the digital image data is converted 106 into a data file and stored 108 on a file system 40, automatically and without intervention by a user (p.11, lines 9-11). There is no

need for the user to determine and manually adjust the scanning parameter settings in conjunction with a preview of the captured image before the digital image data is acquired (p.15, lines 12-18).

Independent claim 38 recites an image processing system. In this embodiment, the system includes a means for configuring an optical scanning arrangement with predefined settings for scanning parameters appropriate to a photographic image and that are not defined by the user. The structure corresponding to the configuring means is image capture subsystem 30 (Fig. 1; p.6, lines 15-17). The system also includes a means for initiating a scanning operation. The structure corresponding to the initiating means is image management subsystem 50 (Fig. 1; p.8, lines 11-18) or an external signal provided to image source 20a (Fig. 1; p.9, lines 1-5). The system also includes a means for optically scanning the target item automatically without intervention by a user. The structure corresponding to the scanning means is image source 20a and image capture subsystem 30 (p.6, line 9 – p.7, line 8). The system also includes a means for converting the digital image into a data file automatically without intervention by a user. The structure corresponding to the converting means is image capture subsystem 30 (p.9, lines 9-11).

Independent claims 27 and 41 also recite an image processing system. In these embodiments, the system includes at least one image source 20 that provides at least one digital image upon request to do so (p.6, lines 10-11). In some embodiments, a date may be associated with the digital image data. In one embodiment in which the digital image data is from a "prerecorded" image source 20b, such as a memory card in a digital camera 21a (Fig. 2), the date may be the date on which the image data was recorded by the source 20b. In another embodiment in which the digital image data is from a "live" image source 20a, such as the optical scanner 24, the date may be the current date on which the scanning is performed, and which can be provided to the image capture subsystem 30 from a date subsystem 32 (p.6, line 21 – p.7, line 14). An image capture subsystem 30 coupled to the at least one image source 20 requests and receives the digital image from the image source 20 (p.6, lines 10-11). In addition, the image capture subsystem 30 further associates 104 a date with each digital image, and automatically converts each digital image into a corresponding

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image file (p.9, lines 9-13). A file system 40 coupled to the image capture subsystem 30 automatically stores each image file in a selected one of a plurality of data folders such as folders 42a,42b (Fig. 3; p.11, lines 10-20). The selected data folder has a folder name that is indicative of the date that is associated with the digital image. In some embodiments, the folder name may be indicative of a particular month and year. For example, the exemplary computer monitor display view 60 illustrates data folders 42a-b in a folder window 62, and thumbnail views of image files 64a-b in a file window 66 (Fig. 3; p.7, line 18 – p.8, line 5). Data folder 42a has the folder name of "Jul 2001", indicative of the month and year of July, 2001. Similarly, data folder 42b has the folder name of "Aug 2001", indicative of the month and year of August, 2001. In operation, if a date of July 15, 2001 is associated with an acquired digital image, then the digital image data file will be stored into folder 42a, which has the folder name of "Jul 2001". If a date of August 23, 2001 is associated with an acquired digital image, then the digital image data file will be stored into folder 42b, which has the folder name of "Aug 2001". If no folder 42 having a folder name indicative of the date as yet exists, such a folder 42 will be created as needed (p.11, lines 10-20). This folder naming and image storing scheme advantageously organizes the digital images by date, thus allowing the user to easily and quickly locate desired images for viewing or post-processing.

Independent claim 11 recites a method that is similar to operations performable by the system of claim 27. A digital image is acquired from an image source (Fig. 4, step 102; p.11, lines 2-3). A date is automatically associated with the digital image (Fig. 4, step 104; p.11, line 5). The digital image is automatically converted into a data file (Fig. 4, step 1062; p.11, line 9). The data file is stored into a folder of a file system 40 (Fig. 1), the folder having a folder name indicative of the date (Fig. 4, step 108; p.11, lines 10-18). The folder name is indicative of the date that is associated with the digital image. In some embodiments, the folder name may be indicative of a particular month and year. For example, the exemplary computer monitor display view 60 illustrates data folders 42a-b in a folder window 62, and thumbnail views of image files 64a-b in a file window 66 (Fig. 3; p.7, line 18 – p.8, line 5; p.11, lines 10-20). Data folder 42a has the folder name of "Jul 2001", indicative of the month and year of July, 2001. Similarly, data folder 42b has the folder name of "Aug 2001",

indicative of the month and year of August, 2001. In operation, if a date of July 15, 2001 is associated with an acquired digital image, then the digital image data file will be stored into folder 42a, which has the folder name of "Jul 2001". If a date of August 23, 2001 is associated with an acquired digital image, then the digital image data file will be stored into folder 42b, which has the folder name of "Aug 2001". If no folder 42 having a folder name indicative of the date as yet exists, such a folder 42 will be created as needed (p.11, lines 10-20). This folder naming and image storing scheme advantageously organizes the digital images by date, thus allowing the user to easily and quickly locate desired images for viewing or post-processing.

Independent claim 35 recites a processor-readable medium having processor-executable instructions thereon which, when executed by a processor of a system, cause the processor to operate in a manner similar to as has been described with regard to claim 11. A digital image is acquired from an image source (Fig. 4, step 102; p.11, lines 2-3). The digital image is automatically converted into a data file (Fig. 4, step 106; p.11, line 9). The data file is stored into a folder of a file system 40 (Fig. 1), the folder having a folder name indicative of the date (Fig. 4, step 108; p.11, lines 10-18). The folder name is indicative of the date that is associated with the digital image. In some embodiments, the folder name may be indicative of a particular month and year. For example, the exemplary computer monitor display view 60 illustrates data folders 42a-b in a folder window 62, and thumbnail views of image files 64a-b in a file window 66 (Fig. 3; p.7, line 18 – p.8, line 5; p.11; lines 10-20). Data folder 42a has the folder name of "Jul 2001", indicative of the month and year of July, 2001. Similarly, data folder 42b has the folder name of "Aug 2001", indicative of the month and year of August, 2001. In operation, if a date of July 15, 2001 is associated with an acquired digital image, then the digital image data file will be stored into folder 42a, which has the folder name of "Jul 2001". If a date of August 23, 2001 is associated with an acquired digital image, then the digital image data file will be stored into folder 42b, which has the folder name of "Aug 2001". This folder naming and image storing scheme advantageously organizes the digital images by date, thus allowing the user to easily and quickly locate desired images for viewing or post-processing.

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Independent claim 37 recites an image processing system. In this embodiment, the system includes a means for acquiring a digital image from an image source 20. The structure corresponding to the acquiring means is image capture subsystem 30 (Fig. 1; p.6, lines 15-17). The system also includes a means for automatically converting the digital image into a data file having a date associated with the digital image. The structure corresponding to the converting means is image capture subsystem 30 (Fig. 1; p.9, lines 9-13). The system also includes a means for storing the data file into a data folder of a file system, where the folder has a folder name indicative of the date. The structure corresponding to the storing means is image capture subsystem 30 (Fig. 1; p.7, line 12 – p.8, line 3; p.11, lines 10-20).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-9, 36, and 38 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. patent 7,113,306 to Nakabayashi et al. ("Nakabayashi") in view of U.S. patent 6,686,930 to Powers et al. ("Powers").

Claims 11-25, 27-35, 37, and 41 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. patent 7,113,306 to Nakabayashi et al. ("Nakabayashi") in view of U.S. patent 6,335,742 to Takemoto ("Takemoto").

Claims 11-14, 16-25, 27-35, 37, and 41 stand or fall together.

Claim 15 stands or falls alone.

Claims 1-3, 6-9, 36, and 38 stand or fall together.

Claim 4 stands or falls alone.

Claim 5 stands or falls alone.

VII. ARGUMENT

A. Claims 11-14, 16-25, 27-35, 37, and 41 were improperly rejected under 35

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U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,113,306 to Nakabayashi et al. ("Nakabayashi") in view of U.S. Patent No. 6,335,742 to Takemoto ("Takemoto").

As to a rejection under §103(a), the U.S. Patent and Trademark Office ("USPTO") has the burden under §103 to establish a *prima facie* case of obviousness by showing some objective teaching in the prior art or generally available knowledge of one of ordinary skill in the art that would lead that individual to the claimed invention. *In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988)*. The Manual of Patent Examining Procedure (MPEP) section 2143 discusses the requirements of a *prima facie* case for obviousness. That section provides as follows:

> To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and reasonable expectation of success must be found in the prior art, and not based on applicant's disclosure.

More recently, the Supreme Court, quoting *In Re Kahn, 441 F.3d, 977, 988 (CA Fed. 2006)*, has clarified that "[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness" *Teleflex Inc. v. KSR Int'l Co., 82 USPQ2d 1385, 1396 (S.Ct. 2007)*.

Appellants contend that claims 11-14, 16-25, 27-35, 37, and 41 were improperly rejected because (1) the applied references, alone or in combination, do not teach or suggest all of Appellants' claim limitations; (2) there is no articulated reason with some rational underpinning to modify or combine reference teachings; and (3) the Takemoto reference teaches away from the combination.

1. The Nakabayashi and Takemoto references, in combination, do not teach

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or suggest all the limitations of Appellants' independent claim 11 in that the limitations of storing a data file having a digital image acquired from an image source into a folder of a file system, where the folder has a folder name indicative of a date associated with the digital image, is neither taught nor suggested by the references.

The rejection of independent claim 11, and its dependent claims 12-14 and 16-25, is respectfully traversed for at least the following reasons. Independent claim 11 recites:

> "11. A method of automatically organizing digital images, comprising:
> acquiring a digital image from an image source;
> automatically associating a date with the digital image;
> automatically converting the digital image into a data file; and
> storing the data file into a folder of a file system, the folder having a folder name indicative of the date." (emphasis added)

The Nakabayashi reference is directed to a system in which "Image data are housed in a folder managed as a film metaphor" (Abstract). The Examiner admits that the Nakabayashi reference "dose [sic] not teach or disclose storing the data file into a folder of a file system, the folder having a folder name indicative of the date" (Office Action, p.11). However, the Examiner contends that the Takemoto reference teaches this limitation, because "information indicative of a file name and its creation date is displayed in the folder list, col. 1, lines 50-55" (Office Action, p.11). Appellants disagree.

With regard to this limitation in Appellants' invention, it can be appreciated in Fig. 3 (reproduced below) of the present application that, for example, folder 42a has a folder name of "Jul 2001", and that folder 42b has a folder name of "Aug 2001". Such folder names are indicative of a date associated with the digital image. As explained with reference to Fig. 3 (reproduced below) and Fig. 4 of the present application:

> "At 108, the data file is stored into a data folder, such as folder 42, of a file system 40. The folder 42 is associated with the date, and typically selected from a set of data folders. If no folder 42 associated with the date as yet exists on the file system 40, such a folder 42 is created. In the preferred embodiment, the data folder is associated with a particular month and year, such as folder 42a for July 2001 and folder 42b for August 2001. For example, for a particular digital image that has a capture date of Jul. 15, 2001 and a storage date of Aug. 23, 2001, if the associated date is the capture date, the image file will be stored into the July 2001 folder 42a, alternatively, if the associated date is the storage date, the image file will be stored

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into the August 2001 folder 42b. Such a folder organization advantageously organizes the digital images by date, thus helping the user to easily and quickly locate desired images for viewing or post-processing." (p.11, lines 10-20)

FIG. 3
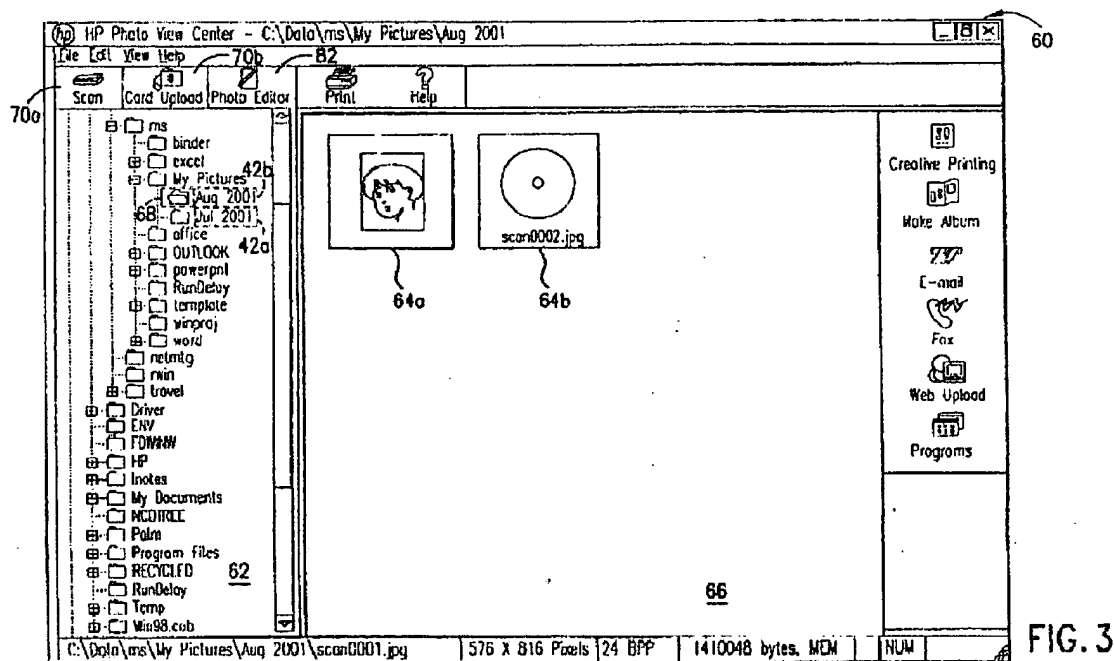
Conversely, the Takemoto reference discloses an apparatus that

"allows for easy understanding of the contents of respective files by present[ing] a portion of the respective files as a graphics image along with other associated attributes of the respective files" (Abstract).

However, there is no teaching or suggestion that the folder of the file system in which at least one of the respective files are stored has a folder name indicative of a date associated with a digital image in the file, as recited in claim 11.

The portion of the Takemoto reference cited by the Examiner regarding a folder name indicative of the date teaches as follows:

"However, in conventional file management software applications or browser software systems, because only the information indicative of a file name and its creation date is displayed in the folder list, the contents of the desired file is difficult to understand, particularly when a 'mechanical' name is given to the file. While software applications such as WINDOWS '95 provide an icon next to the file name, indicating the application for which the file may be launched, there is no meaningful information regarding the substance of the

file provided by the file management software." (col. 1, lines 49-59)

Thus the cited portion of the Takemoto reference teaches merely that a folder list displays file names and creation dates of files contained in the folder, in some cases along with an icon of the application associated with the file. It teaches or suggests nothing about the name given to the folder, and more specifically does not teach that the folder name is indicative of a date associated with a digital image contained in the files in the folder.

Nor does any other portion of the Takemoto reference teach or suggest that the folder name is indicative of a date associated with a digital image contained in the files in the folder. The folder name illustrated in Fig. 4 is "tmp", while none of the folder names along the left side of the DIGICLIP screen display of Fig. 16 (e.g. "bin", "Exchange", "MRS", "MSDEV", "MSOffice", etc.) is indicative of any date.

Accordingly, the Nakabayashi and Takemoto references, taken alone or in combination, do not teach or suggest the combination of elements recited in Appellants' claim 11, nor in its dependent claims 12-14 and 16-25. Therefore, the Office has failed to establish a prima facie case of obviousness at least on these grounds, and the rejection is improper at least for this reason and should be overruled.

Because these references do not teach or suggest the combination of elements, the Examiner impermissibly uses the Appellants' disclosure as a blueprint or in hindsight for the rejection. In this regard, the Examiner argues that "anyone of a wide variety of scanning and image processing device, can be similarly employed to accomplish this desired result without depending from the teaching of the present invention" (Office Action, p.12). However, this cannot be true as it is only in Appellants' own disclosure that all the limitations of the claims can be found.

2. The Nakabayashi and Takemoto references, in combination, do not teach or suggest all the limitations of Appellants' independent claims 27, 35, 37, and 41 in that the limitation of a folder having a folder name indicative of the date associated with the digital image is neither taught nor suggested by the references.

Independent claims 27, 35, 37, and 41 each recite a similar limitation of a folder having a folder name indicative of the date associated with the digital image. Accordingly, the rejection of these independent claims is traversed for similar reasons as argued above for claim 11.

In rejecting claims 27 and 41, the Examiner contends that "information indicative of a file name and its creation date is created and displayed in the folder list, as shown in fig 13A, automatically stores col. 1, lines 50-55" (Office Action, p.16, 23). Appellants disagree, and contend that for similar reasons as explained heretofore with regard to col. 1, ln. 49-59 of the Takemoto reference, the folder name is not indicative of the date. With regard to Fig. 13A, it is merely one "example pull-down menu on a menu bar for the browser screen", illustrating commands such as Creat[e] New Folder and Acquire From Scanner under the File menu of the browser (Takemoto, col. 4, ln. 11-13). As such, it has nothing that teaches or suggests a folder name indicative of the date

In rejecting claims 35 and 37, the Examiner contends that "information indicative of a file name and its creation date is displayed in the folder list, col. 1, lines 50-55" (Office Action, p.20,21). Appellants disagree, and contend that for similar reasons as explained heretofore with regard to col. 1, ln. 49-59 of the Takemoto reference, the folder name is not indicative of the date.

Accordingly, the Nakabayashi and Takemoto references, taken alone or in combination, do not teach or suggest the combination of elements recited in Appellants' claims 27, 35, 37, and 41, nor in their dependent claims 28-34. Therefore, the Office has failed to establish a prima facie case of obviousness at least on these grounds, and the rejection is improper at least for this reason and should be overruled.

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3. The Nakabayashi and Takemoto references are not properly combinable in that there is no articulated reason with some rational underpinning to modify or combine the reference teachings because the reason articulated by the Examiner for combining in the Takemoto reference is unrelated to the features the Examiner alleges it teaches or suggests.

In order to establish a *prima facie* case of obviousness, there must be an articulated reason with some rational underpinning that would have prompted a person of ordinary skill in the relevant field to combine the prior art elements in the manner claimed. *In Re Kahn, 441 F.3d, 977, 988 (CA Fed. 2006).* A patent composed of several elements is not proved obvious merely by demonstrating that each element was, independently, known in the prior art.

The Examiner states that the Nakabayashi and Takemoto references can be combined together because "it would have help[ed] user to provide a meaningful, descriptive name to the file" (Office Action, p.12; emphasis added).

Appellants do not believe that this articulated reason has the required rational underpinning. First, a file is a completely different element from the folder in which the file is stored. The limitations of claim 11 at issue refer to the name of the folder, not the name of a file stored in that folder. Second, assigning to a file a meaningful, descriptive name for that file is completely different from assigning to a folder a name indicative of a date associated with a digital image contained in a file in that folder. Assigning a meaningful, descriptive name to files in a folder, as suggested by the Examiner, would not organize the digital images by date to help the user easily and quickly locate desired images, as does Appellants' invention.

Because the reason articulated by the Examiner relates to a completely different element, and a completely different element attribute, than those at issue in the claims, Appellants believe that the reason lacks the rational underpinning required to properly combine the references. For at least this reason, the Examiner has failed to establish a prima facie case of obviousness and the rejection under 103(a) of claims 11-14, 16-25, 27-35, 37, and 41 should be overruled.

4. The Nakabayashi and Takemoto references are not properly combinable in that at least the Takemoto reference teaches away from the combination.

Teaching away is an important indicium of nonobviousness. *U.S. v. Adams, 383 U.S. 39, 148 USPQ 479 (1966).* Teaching away is the antithesis of the art suggesting that the person of ordinary skill go in the claimed direction. *In re Fine, 5 USPQ2d 1596, 1599 (Fed. Cir. 1988).*

The Takemoto reference teaches away by failing to teach or suggest that any folders have folder names indicative of a date associated with the digital image in files in the folder, as required by claims 11-14, 16-25, 27-35, 37, and 41. None of the folder names illustrated in the drawings, for example, have folder names indicative of such a date. For example, the folder name illustrated in Fig. 4 is "tmp", while the folder names along the left side of the DIGICLIP screen display of Fig. 16 include names such as "bin", "Exchange", "MRS", "MSDEV", "MSOffice", etc. None of these folder names is indicative of a date. In addition, there is no teaching or suggestion that the various image files contained in the file system are organized into particular folders based on any date that is associated with the digital image in those image files.

Because the Takemoto reference teaches away from a person of ordinary skill going in the direction recited in the claims, it is improper to combine the Nakabayashi and Takemoto references. For at least this reason, the Examiner has failed to establish a prima facie case of obviousness and the rejection under 103(a) of claims 11-14, 16-25, 27-35, 37, and 41 should be overruled.

B.　**Claim 15 was improperly rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. patent 7,113,306 to Nakabayashi et al. ("Nakabayashi") in view of U.S. Patent No. 6,335,742 to Takemoto ("Takemoto").**

1. The rejection of dependent claim 15 is improper for the same reasons that

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render the rejection of its base claim 11 improper.

"A claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers." (35 U.S.C. §112, paragraph 4.)

Claim 15 depends from base claim 11, which was rejected under 103(a) based on the Nakabayashi and Takemoto references. Appellants have argued heretofore the reasons why the rejection of base claim 11 is improper. Because the rejection of base claim 11 is improper, the rejection of its dependent claim 15 is also improper for at least the same reasons.

2. The Nakabayashi and Takemoto references, alone or in combination, do not teach or suggest all the limitations of dependent claim 15 in that the limitation of the folder name being indicative of a particular month and year associated with an image in a file stored in the folder is not taught or suggested by the reference.

Appellants further contend that dependent claim 15 was improperly rejected because the cited references do not teach or suggest all of the limitations of the claim.

Dependent claim 15 recites:

"15. The method of claim 11, wherein the folder name is indicative of a particular month and year." (emphasis added)

With regard to claim 15, the Examiner states that, in the Nakabayashi reference, "fig 5 and 6 shows folder associated with date, month and year" (Office Action, p.7; emphasis added). Appellants disagree.

First, the Examiner mischaracterizes the limitation. Appellants do not claim that the folder is associated with date, month, and year. Claim 15, read in concert with its base claim 11, recites that the folder has a folder name that is indicative of a particular month and year that is associated with a digital image in a file stored in the folder. Even if, arguendo, and which Appellants do not concede, the Nakabayashi reference were to teach that the folder into which a digital image data file is stored is associated with a date, month and year, this would ‹ be significantly different from the recited limitation in which the folder has a folder name that is indicative of a particular month, and year associated with a digital image stored in the

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folder.

Second, there is no teaching or suggestion in the Nakabayashi reference of any folder names that are indicative of a particular month, and year associated with a digital image stored in the folder. More specifically, the Nakabayashi reference discloses a folder organization in which the folder names are not indicative of any date associated with the digital image, much less a particular month, and year associated with the digital image. The folder system of Fig. 6 cited by the Examiner illustrates 3 folders (in the leftmost "file" column), but does not specify the names of the folders, which are denoted only as "Folder". In the adjacent "film metaphor" column, "each folder is viewed as a patrone of a film" (col. 13, lines 11-12). Appellants believe that a better translation might be "each folder is viewed as a film canister", which the outline of the file metaphor appears to illustrate. However, there is no disclosure that the text shown within the outline of a film metaphor – for example, "flower - 10 May '98 - 25 sheets" – is used as the folder name. At least some of this information corresponds to values of certain fields of film data 30c, such as the "film name" field and the "date" field.

As can be understood with reference to Fig. 34, the Nakabayashi reference discloses that the graphical view of the film metaphor – e.g. "Karario at Matsumoto - 27 May 1998" – is produced in group display region dp3 on the screen display generated by the print processing operation of the main control section 60 of the image data processing software of Fig 3. Again, there is no disclosure that the text shown within the outline of a film metaphor is the folder name (col. 24, line 44 – col. 25, line 3). Instead, as can be understood with reference to the hierarchical folder structure of Fig. 47, the "film data 30c" (containing the textual information needed to draw the graphical view of the film metaphor) "are saved as a database file ai_dpe.db0 of a 'main' folder 31" (col. 35, lines 40-44). The contents of this database file can be accessed by the image data processing software for use in drawing the graphical view of the film metaphor on the print processing operation screen. The Nakabayashi reference further discloses:

"in the case in which the image file 30a is to be saved on a hard disk 13b, it is saved in a 'films' folder 33 formed in the 'main' folder 31. One folder is further formed for each patrone in the 'films' folder 33. When 'swimming in the sea' is set as the name of the

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patrone, a 'swimming in the sea' folder 34 is obtained. When 'hiking' is set as the name of the patrone, a 'hiking' folder 35 is obtained. Database files ai_dpc. db1 and ai_dpc. db2 arc created as the photographic data 30b in the respective folders and individual image files 30a are saved with unique names. As described earlier, the thumb nail data are saved in either of the two database files which has the extension of db2, and the residual photographic data are saved in the database file having the extension of db1. Moreover, information about only the image file 30a saved in the same directory is stored in the database file and so is the 'hiking' folder 35 as a matter of course. For the reasons of the processing, it is convenient that there is a patrone which saves temporarily inseparable data, and a patrone having the name of 'others' is prepared. The image file 30a classified for the patrone of 'others' is saved in the same column as the above-mentioned 'swimming in the sea' folder 34 and 'hiking' folder 35 which are provided under the 'films' folder 33."

Thus, with regard to folder names, the Nakabayashi reference teaches, arguendo and at most, that the folder name corresponds to the text of the "film name" field of film data 30c. The "date" field of film data 30c is a different field from the "film name" field.

Moreover, the only folder names disclosed in the reference are illustrated in Fig. 47: "main", "removable", "films", "swimming in the sea", and "hiking". It is noted that none of these folder names are indicative of a particular month and year.

With regard to the Takemoto reference, the Examiner does not contend that this reference teaches or suggests the limitations of claim 15, and it is believed that the Takemoto reference does not teach or suggest these limitations. For similar reasons as explained heretofore with reference to claim 11, the folder names disclosed in the Takemoto reference in, for example, Figs. 4 and 16 are not indicative of any date, much less of a particular month and year that is associated with a digital image stored in the folder.

For at least this additional reason, the Examiner has failed to establish a prima facie case of obviousness and the rejection under 103(a) of claim 15 should be overruled.

C. **Claims 1-3, 6-9, 36, and 38 were improperly rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. patent 7,113,306 by Nakabayashi ("Nakabayashi") in view of U.S. patent 6,686,930 by Powers et al. ("Powers").**

Appellants contend that claims 1-3, 6-9, 36, and 38 were improperly rejected because

(1) the applied references, alone or in combination, do not teach or suggest all of Appellants' claim limitations; (2) there is no articulated reason with some rational underpinning to modify or combine reference teachings; and (3) the Powers reference teaches away from the combination.

1. The Nakabayashi and Powers references, in combination, do not teach or suggest all the limitations of Appellants' independent claim 1 in that the limitations of configuring an optical scanning arrangement with predefined settings for scanning parameters appropriate to a photographic image and optically scanning the target item using the predefined settings without requiring any intervention by a user, wherein the settings are not predefined by the user, are neither taught nor suggested by the reference.

The rejection of independent claim 1, and its dependent claims 2-3, and 6-9, is respectfully traversed for at least the following reasons. Claim 1 recites:

"1. A method of optically scanning a target item, comprising:
 configuring an optical scanning arrangement with predefined settings for scanning parameters appropriate to a photographic image;
 initiating a scanning operation;
 in response to the initiating, optically scanning the target item using the predefined settings to form a digital image of the target item; and
 converting the digital image into a data file, wherein the scanning and the converting are performed automatically without intervention by a user, and wherein the predefined settings are not defined by the user." (emphasis added)

The Examiner has not established a *prima facie* case of obviousness at least because the applied references do not teach or suggest all of Appellants' claim limitations.

Appellants' invention, as recited in claim 1, configures an optical scanning arrangement with predefined settings for scanning parameters. The predefined settings are appropriate for scanning a photographic image. The target item (e.g. a photograph placed on the scanner glass) is then optically scanned using the predefined settings. Thus the optical scanning arrangement of Appellants' claim 1 is configured with the predefined parameter settings appropriate to a photographic image before the target item is scanned, and the thus-configured scanning arrangement uses these predefined parameters when scanning the target

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item. Claim 1 recites configuring the scanning arrangement with predefined parameter settings prior to scanning the target item, and then scanning the target item in conformance with those parameter settings in order to produce a digital image data file. The scanning and converting operations are advantageously performed automatically without requiring any intervention by a user, and the predefined settings for the scanning parameters are not defined by the user.

However, the Nakabayashi and Powers references, in combination, fail to teach or suggest at least the limitations of configuring an optical scanning arrangement with predefined settings for scanning parameters appropriate to a photographic image, and optically scanning the target item using the predefined settings without requiring any intervention by a user, wherein the settings are not predefined by the user.

The Examiner takes two contradictory positions regarding what he alleges the Nakabayashi reference as teaching with regard to scanning. First, the Examiner states that the Nakabayashi reference

"configured an optical scanning arrangement with predefined settings for scanning parameters appropriate for a photographic image, (an optical scanning arrangement of fig 2, with a parameter setting unit A2 of fig 1, and image modification section 40 mainly generates a various parameters for automatically executing an image processing, which include scanning, converting and setting parameters with out human intervention, col. 12, lines 23-30)" (Office Action, p.3).

Then, in direct contradiction, the Examiner contends that

"Nakabayashi (306) dose [sic] not teach scanning arrangement with a predefined settings of scanning parameters" (Office Action, p.4).

Continuing, the Examiner contends that

"Powers (930) in the same area of scanning device teaches a preset scanning setting of scanning parameters (as shown in fig 5, discussed in col. 10, lines 40-45, selection comparator 534 and determine a preset of scanning parameters [resolution setting, col. 7, lines 60-65] to accommodate a parameters with in scanning system of fig 5)" (Office Action, p.4).

Appellants agree with the Examiner's second position on the Nakabayashi reference: that it does not teach a scanning arrangement with predefined settings of scanning parameters. The Nakabayashi reference is not directed to scanning target items, but rather to post-

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processing a digital image data file stored in data saving unit A1 (Fig. 1) (i.e. after the target

item has been scanned). The post-processing is typically done in a manner such that the

original digital image data file is retained.

"When display, output or print is actually required, various image processings are
executed by referring to modification information on only a work area with original image
data left. Therefore, it is possible to easily enjoy image modification or the like with the
original image data left as they are" (Abstract).

In operation, image data – for example, image data captured from scanner 11a (Fig. 2)

– is stored in image data storage region A11 of data holding unit A1 in its original form (Fig.

1; col. 7, lines 37-49). Parameter setting unit A2 is used to set image processing parameters

for particular image data; these parameters get stored in parameter storage region A12 of data

holding unit A1. Then, image data to be post-processed, and the corresponding image

processing parameters that define the post-processing, are retrieved from image data storage

region A11 by data acquiring unit A4 (col. 8, lines 27-32). Finally, post-processing of the

retrieved image data in accordance with the image processing parameters is performed by one

or more modifying engines A31,A3n of image reproducing unit A3 (col. 8, lines 46-54).

However, there is no disclosure in the Nakabayashi reference that scanner 11a is ever

configured with any parameters generated by parameter setting unit A2. Rather, the

parameters generated by parameter setting unit A2 are used by modifying engines A31,A3n of

image reproducing unit A3 to modify image data that has been previously captured by scanner

11a and stored in image data storage region A11 of data holding unit A1. Thus the

parameters are not scanning parameters as recited in claim 1.

Furthermore, claim 1 recites that the predefined settings with which the scanning

arrangement is configured are not defined by the user. However, according to the

Nakabayashi reference:

"The parameter setting unit A2 serves to generate a parameter as a result, and includes
the case in which an instruction for an image processing from a user through a GUI is
accepted to set a parameter and the case in which image data are originally inspected to set a
parameter for implementing an image processing to meet a predetermined purpose." (col. 8,
lines 14-20; emphasis added)

The former case clearly teaches that the predefined settings are set by the user.

In the latter case, where the predefined settings are not defined by the user, these predefined settings are determined instead by inspecting the captured image data. This is feasible to accomplish the purposes of the Nakabayashi reference because the image processing is performed as a post-processing operation after the image data has been captured. However, in claim 1, the predefined scanning parameter settings must be known (and then used to configure the scanning arrangement) before the image data has been captured, so that the scanning arrangement can be operated using those settings in order to capture that image data. Such is not only not done in the Nakabayashi reference, but it further would clearly be impossible to do in the Nakabayashi reference, since the predefined parameter settings could only be known after the image data has already been captured.

Thus, because the Nakabayashi reference does not teach a scanning arrangement with predefined settings of scanning parameters for the reasons explained above, it necessarily follows that the Nakabayashi reference cannot teach that these predefined settings are not defined by the user.

Nor does the Powers reference remedy the deficiencies of the Nakabayashi reference. As explained below, the Powers reference teaches that the predefined settings of scanning parameters are defined by the user, and that the scanning is not performed automatically without intervention by a user. Both of these teachings are contrary to the limitations of claim 1.

In Appellants' invention, Fig. 7 illustrates the predefined settings. One of these predefined settings is crop mode 146. Crop mode defines how the portion of the image to be selected for capture is determined. The crop mode setting appropriate to scanning photographic images is "automatic border detect" (Fig. 7). With "automatic border detect" as the predefined setting for crop mode, the user does not have to manually select the desired portion of the source image to scan (via, for example, a preview scan). Instead, it "allows image scanning to be performed in a one-step operation that is analogous to how a digital image is captured with a 'point-and-shoot' camera" (specification, p.15, ln. 16-18).

In the Powers reference, conversely, the user selects (Fig. 3, step 326; Fig. 4, step

438), using a rubber band box of the user interface, the desired portion of the source image to scan (col. 8, ln. 14-25).

However, even if the user somehow does not make a user selection of the desired portion of the source image to scan, intervention by the user is still required, contrary to claim 1. This occurs because the image source is in TWAIN state 5, which "causes the Source to pre-scan the source image and display a representation of the source image in the UI" (col. 7, ln. 64-67), and must be manually transitioned by the user to the next state. Accordingly, after the desired portion has been selected by the user, or even if he uses a default selection, and the user

"is satisfied with the indicated selection, the user indicates that the selection is a final selection. For example, the user selects a scan command in the UI. Typically, the indication that the selection is final causes the Source to rescan the indicated portion of the source image and to notify the application that a data transfer is ready. As this is done, the Source transitions to TWAIN state 6" (col. 8, ln. 22-29; emphasis added).

Thus, the Nakabayashi and Powers references, in combination, fail to teach or suggest at least the limitations of configuring an optical scanning arrangement with predefined settings for scanning parameters appropriate to a photographic image, and optically scanning the target item using the predefined settings without requiring any intervention by a user, wherein the settings are not predefined by the user. Therefore, the Office has failed to establish a prima facie case of obviousness for claim 1, and dependent claims 2-3, and 6-9, at least on these grounds, and the rejection is improper at least for this reason and should be overruled.

Because these references do not teach or suggest the combination of elements, the Examiner impermissibly uses the Appellants' disclosure as a blueprint or in hindsight for the rejection. In this regard, the Examiner argues that "anyone of a wide variety of scanning and image processing device, can be similarly employed to accomplish this desired result without depending from the teaching of the present invention" (Office Action, p.5). However, this cannot be true as it is only in Appellants' own disclosure that all the limitations of the claims can be found.

2. The Nakabayashi and Powers references, in combination, do not teach or

suggest all the limitations of Appellants' independent claims 36 and 38 in
that the limitations of configuring an optical scanning arrangement with
predefined settings for scanning parameters appropriate to a photographic
image and optically scanning the target item using the predefined settings
without requiring any intervention by a user, wherein the settings are not
predefined by the user, are neither taught nor suggested by the
references.

Independent claims 36 and 38 each recite similar limitations to claim 1, and were
rejected on the same or similar basis as claim 1. Accordingly, the rejection of these
independent claims is traversed for similar reasons as argued above for claim 1.

Accordingly, the Nakabayashi and Powers references, taken alone or in combination,
do not teach or suggest the combination of elements recited in Appellants' claims 36 and 38.
Therefore, the Office has failed to establish a prima facie case of obviousness at least on these
grounds, and the rejection is improper at least for this reason and should be overruled.

3. The Nakabayashi and Powers references are not properly combinable in
   that there is no articulated reason with some rational underpinning to
   modify or combine the reference teachings because the reason articulated
   by the Examiner for combining in the Powers reference is not at all
   pertinent to the operation of the Nakabayashi reference.

In order to establish a *prima facie* case of obviousness, there must be an articulated
reason with some rational underpinning that would have prompted a person of ordinary skill in
the relevant field to combine the prior art elements in the manner claimed. *In Re Kahn, 441
F.3d, 977, 988 (CA Fed. 2006).* A patent composed of several elements is not proved obvious
merely by demonstrating that each element was, independently, known in the prior art.

The Examiner states that the Nakabayashi and Powers references can be combined
together because "it would have help[ed] a user to provide for automatic scanning to fit,
thereby reducing or eliminating numerous scanning iteration in a document or image
preparation process, as suggested in col. 4, lines 5-10, by Powers (930)" (Office Action, p.4;

emphasis added).

Appellants do not believe that this articulated reason has the required rational underpinning. The Nakabayashi reference, as has been discussed heretofore, is <u>not</u> directed at all to <u>scanning</u> target items, but rather is directed to <u>post-processing</u> stored digital image data files that have already been acquired. Any features in the Powers reference that, arguendo, provide for automatic scanning are simply not pertinent to the Nakabayashi reference. In alleging the articulated reason to combine, the Examiner has done nothing more than restate the final sentence of the Background section of the Powers reference, ignoring its lack of relevance to the Nakabayashi reference.

For these reasons, Appellants believe that the reason lacks the rational underpinning required to properly combine the references. For at least this reason, the Examiner has failed to establish a prima facie case of obviousness and the rejection under 103(a) of claims 1-3, 6-9, 36, and 38 should be overruled.

4. The Nakabayashi and Powers references are not properly combinable in that at least the Powers reference teaches away from the combination.

Teaching away is an important indicium of nonobviousness. <u>U.S. v. Adams, 383 U.S. 39, 148 USPQ 479 (1966).</u> Teaching away is the antithesis of the art suggesting that the person of ordinary skill go in the claimed direction. <u>In re Fine, 5 USPQ2d 1596, 1599 (Fed. Cir. 1988).</u>

The Powers reference teaches away by teaching that the user <u>intervenes</u> in the scanning process. The user intervention taught by Powers, as has been discussed heretofore, includes selecting, using a rubber band box of the user interface (UI), the desired portion of the source image to be scanned; and selecting a scan command in the UI to indicate that the present selection is final, and to rescan the indicated portion of the source image and transition the Source to TWAIN state 6.

Such teachings are the <u>opposite</u> of the claimed direction, in which scanning is performed automatically <u>without</u> intervention by a user.

Because the Powers reference teaches away from a person of ordinary skill going in

the direction recited in the claims, it is improper to combine the Nakabayashi and Powers references. For at least this reason, the Examiner has failed to establish a prima facie case of obviousness and the rejection under 103(a) of claims 1-3, 6-9, 36, and 38 should be overruled.

> ### D. Claim 4 was improperly rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. patent 7,113,306 to Nakabayashi ("Nakabayashi") in view of U.S. patent 6,686,930 by Powers et al. ("Powers").
>
> 1. The rejection of dependent claim 4 is improper for the same reasons that render the rejection of its base claim 1 improper.

Claim 4 depends from base claim 1, which was rejected under 103(a) based on the Nakabayashi and Powers references in combination. Appellants have presented heretofore the reasons why the rejection of base claim 1 is improper. Because the rejection of base claim 1 is improper, the rejection of its dependent claim 4 is also improper for at least the same reasons.

> 2. The Nakabayashi and Powers references do not teach or suggest all the limitations of Appellants' dependent claim 4 in that the limitation of "storing the data file on the file system in a folder having a folder name indicative of the date" is not taught or suggested by the references.

Dependent claim 4 recites:

"4. The method of claim 3, further including specifying a date, and wherein the storing further includes storing the data file on the file system in a folder having a folder name indicative of the date." (emphasis added)

With regard to claim 4, the Examiner states that the Nakabayashi reference teaches that "the storing further includes storing the data file on the file system in a folder associated with the date, see (fig 5 and 6, where a data file has been shown relating to date, month and year of the file data, col. 13, lines 40-45)" (Office Action, p.5; emphasis added). Appellants disagree.

First, the Examiner asserts that the Nakabayashi reference teaches storing the data file on the file system in a folder <u>associated with the date</u>. To whatever extent, if any, arguendo, that the Examiner's assertion is correct, such is not pertinent to claim 4. Claim 4 recites a very different limitation: storing the data file on the file system in a folder <u>having a folder name indicative of the date</u>.

Second, a similar limitation is included in claim 11, whose rejection has been discussed heretofore. In that rejection, the Examiner admitted that the Nakabayashi reference "dose [sic] not teach or disclose storing the data file into a folder of a file system, the folder having a folder name indicative of the date" (Office Action, p.11). Instead, the Examiner contended that the Takemoto reference teaches this limitation. However, the Takemoto reference is not cited in the rejection of claim 4 or its base claim 1.

Third, the portion of the Nakabayashi reference cited by the Examiner in rejecting claim 4 was also cited in the rejection of claim 15, which has been discussed heretofore. Therefore, the rejection of claim 4 is traversed for similar reasons as have been discussed heretofore with regard to the rejection of claim 15.

The Examiner does not cite the Powers reference as teaching or suggesting such limitations, and it is believed that the Powers reference does not teach or suggest such limitations.

Thus for these reasons, the Nakabayashi and Powers references, in combination, fail to teach or suggest all of the limitations of claim 4. Accordingly, the Examiner has failed to establish a prima facie case of obviousness at least on these grounds, and the rejection is improper at least for this reason and should be overruled.

E. Claim 5 was improperly rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. patent 7,113,306 to Nakabayashi ("Nakabayashi") in view of U.S. patent 6,686,930 by Powers et al. ("Powers").

1. The rejection of dependent claim 5 is improper for the same reasons that render the rejection of its parent claim 4 improper.

Claim 5 depends from parent claim 4, which was rejected under 103(a) based on the Nakabayashi and Powers references in combination. Appellants have presented heretofore the reasons why the rejection of parent claim 4 is improper. Because the rejection of parent claim 4 is improper, the rejection of its dependent claim 5 is also improper for at least the same reasons.

2. The Nakabayashi and Powers references do not teach or suggest all the limitations of Appellants' dependent claim 5 in that the limitation of "wherein the folder name is indicative of a particular month and year" is not taught or suggested by the references.

Dependent claim 5 recites:

"5. The method of claim 4, wherein the folder name is indicative of a particular month and year." (emphasis added)

With regard to claim 5, the Examiner states that the Nakabayashi reference teaches that "the folder is associated with a particular month and year as shown in fig 6, file data folder is associated with month (col. 13, lines 40-45)" (Office Action, p.5; emphasis added). Appellants disagree.

First, the Examiner asserts that the Nakabayashi reference teaches that the file system folder is associated with a particular month and year. To whatever extent, if any, arguendo, that the Examiner's assertion is correct, such is not pertinent to claim 5. Claim 5 recites a very different limitation: that the file system folder name is indicative of a particular month and year.

Second, the portion of the Nakabayashi reference cited by the Examiner in rejecting claim 5 was also cited in the rejection of claim 15, which has been discussed heretofore.

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Therefore, the rejection of claim 5 is traversed for similar reasons as have been discussed heretofore with regard to the rejection of claim 15.

The Examiner does not cite the Powers reference as teaching or suggesting such limitations, and it is believed that the Powers reference does not teach or suggest such limitations.

Thus for these reasons, the Nakabayashi and Powers references, in combination, fail to teach or suggest all of the limitations of claim 5. Accordingly, the Examiner has failed to establish a prima facie case of obviousness at least on these grounds, and the rejection is improper at least for this reason and should be overruled.

VIII. CONCLUSION

Appellants contend that claims 1-9, 11-25, 27-38, and 41 were improperly rejected because the applied reference does not disclose all of Appellants' claim limitations. This reason distinguishes Appellants' claims from the cited reference, and renders Appellants' claims patentable in light of the cited reference.

Overruling of the Examiner's rejections of claims 1-9, 11-25, 27-38, and 41 is respectfully requested.

HP Docket No. 10019417-1

AUTHORIZATION TO PAY AND PETITION
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If any charges or fees must be paid in connection with the foregoing communication (including but not limited to the payment of an extension fee or issue fees), or if any overpayment is to be refunded in connection with the above-identified application, any such charges or fees, or any such overpayment, may be respectively paid out of, or into, the Deposit Account No. 08-2025 of Hewlett-Packard Company. If any such payment also requires Petition or Extension Request, please construe this authorization to pay as the necessary Petition or Request which is required to accompany the payment.

Respectfully submitted,

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IX. CLAIMS APPENDIX

1. A method of optically scanning a target item, comprising:

configuring an optical scanning arrangement with predefined settings for scanning parameters appropriate to a photographic image;

initiating a scanning operation;

in response to the initiating, optically scanning the target item using the predefined settings to form a digital image of the target item; and

converting the digital image into a data file, wherein the scanning and the converting are performed automatically without intervention by a user, and wherein the predefined settings are not defined by the user.

2. The method of claim 1, further including:

automatically storing the data file.

3. The method of claim 2, wherein the storing includes storing the data file on a file system.

4. The method of claim 3, further including specifying a date, and wherein the storing further includes storing the data file on the file system in a folder having a folder name indicative of the date.

5. The method of claim 4, wherein the folder name is indicative of a particular month and year.

6. The method of claim 1, wherein the scanning parameters are selected from the group consisting of pixel depth, resolution, crop mode, and skew correction mode.

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7. The method of claim 6, wherein the scanning parameter settings appropriate to a photographic image includes:

pixel depth = 24-bit color;

resolution = 150 dots per inch;

crop mode = automatic border detection; and

skew correction mode = automatic image straightening.

8. The method of claim 4, wherein the file system has no folder having a folder name indicative of the date, further including:

creating the folder having the folder name indicative of the date.

9. The method of claim 4, wherein the data file is a plurality of data files and wherein the file system has a plurality of folders, further including:

viewing a representation of the plurality of folders; and

viewing a representation of the data files in one of the folders.

11. A method of automatically organizing digital images, comprising:

acquiring a digital image from an image source;

automatically associating a date with the digital image;

automatically converting the digital image into a data file; and

storing the data file into a folder of a file system, the folder having a folder name indicative of the date.

12. The method of claim 11, further including:

creating the folder if no other folder is associated with the date.

13. The method of claim 11, wherein the date is the capture date when the image was captured by the image source.

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14. The method of claim 11, wherein the date is the storage date when the image was converted into a data file.

15. The method of claim 11, wherein the folder name is indicative of a particular month and year.

16. The method of claim 11, wherein the folder is selected from a set of folders.

17. The method of claim 11, wherein the digital image is a previously captured image, and wherein the acquiring further includes:

uploading the previously captured image.

18. The method of claim 11, wherein the acquiring further includes:

predefining settings for image acquisition parameters appropriate to a photographic image; and

capturing the digital image with the image source according to the predefined settings.

19. The method of claim 11, further comprising:

performing a post-processing operation on the data file.

20. The method of claim 19, wherein the performing includes performing an image polishing operation.

21. The method of claim 19, wherein the performing includes processing the data file with an application program.

22. The method of claim 21, wherein the performing further includes sending the processed data file to a destination.

23. The method of claim 22, wherein the destination is a peripheral device.

24. The method of claim 23, wherein the peripheral device is selected from the group consisting of a printer and a fax machine.

25. The method of claim 21, wherein the application program is selected from the group consisting of an image polishing application, a creative printing application, a photo album application, an e-mail application, and a photo web site upload application.

27. An image processing system, comprising:

at least one image source, each image source for providing at least one digital image upon request;

an image capture subsystem coupled to the at least one image source for requesting and receiving the at least one digital image from the at least one image source, the image capture subsystem further for associating a date with each digital image and automatically converting each digital image into a corresponding image file; and

a file system coupled to the image capture subsystem for automatically storing each image file in a selected one of a plurality of data folders, the selected data folder having a folder name indicative of the date.

28. The image processing system of claim 27, comprising:

an image management subsystem coupled to the image capture subsystem and the file system for viewing the plurality of data folders and the image files in a specified data folder.

29. The image processing system of claim 28, comprising:

a post-processing subsystem coupled to the image management subsystem for post-processing at least one selected one of the image files.

30. The image processing system of claim 29, wherein the post-processing subsystem

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is further coupled to the file system for accessing the selected ones of the image files.

31. The image processing system of claim 29, comprising:

an image destination coupled to the post-processing subsystem for receiving output data corresponding to at least one selected one of the image files.

32. The image processing system of claim 27, wherein the date is an image acquisition date provided by the image source.

33. The image processing system of claim 27, wherein the date is a current date provided by a date subsystem coupled to the image capture subsystem.

34. The image processing system of claim 27, wherein the at least one image source is an optical scanner, and wherein the image capture subsystem provides predefined settings appropriate to a photographic image to the optical scanner for use in providing the at least one digital image.

35. A processor-readable medium having processor-executable instructions thereon which, when executed by a processor, cause the processor to:

acquire a digital image from an image source;

automatically convert the digital image into a data file having a date associated with the digital image; and

store the data file into a data folder of a file system, the folder having a folder name indicative of the date.

36. A processor-readable medium having processor-executable instructions thereon which, when executed by a processor, cause the processor to:

configure an optical scanning arrangement with predefined settings for scanning parameters appropriate to a photographic image;

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detect an initiation of a scanning operation;

in response to the initiation, optically scan the target item using the predefined settings to form a digital image of the target item; and

convert the digital image into a data file, wherein the instructions to scan and convert are performed automatically after the initiation without intervention by a user, and wherein the predefined settings are not defined by the user.

37. An image processing system, comprising:

means for acquiring a digital image from an image source;

means for automatically converting the digital image into a data file having a date associated with the digital image; and

means for storing the data file into a data folder of a file system, the folder having a folder name indicative of the date.

38. An image processing system, comprising:

means for configuring an optical scanning arrangement with predefined settings for scanning parameters appropriate to a photographic image;

means for initiating a scanning operation;

means for optically scanning the target item using the predefined settings to form a digital image of the target item; and

means for converting the digital image into a data file, wherein the scanning and the converting are performed automatically without intervention by a user, and wherein the predefined settings are not defined by the user.

41. An image processing system, comprising:

at least one image source, each image source for providing at least one digital image upon request;

an image capture subsystem coupled to the at least one image source which requests and receives the at least one digital image from the at least one image source, associates a

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date with each image, and automatically converts each image into a corresponding image file; and

a file system coupled to the image capture subsystem which receives each image file from the image capture subsystem and automatically stores each image file in a selected one of a plurality of data folders, the selected data folder having a folder name indicative of the date.

X. EVIDENCE APPENDIX

None

XI. RELATED PROCEEDINGS APPENDIX

None